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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/551,233	04/17/2000	Katsuyoshi Matsuura	FUJ 99228 CIP	9686

7590 08/13/2004
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EXAMINER

LEE, HSIEN MING

ART UNIT PAPER NUMBER

2823

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/551,233

Applicant(s)

MATSUURA ET AL.

Examiner

Hsien-Ming Lee

Art Unit

2823

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 12.

Claim(s) objected to: _____.

Claim(s) rejected: 15-19.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

**HSIEN-MING LEE
PRIMARY EXAMINER**Hsien-Ming Lee
Primary Examiner
Art Unit: 2823

Continuation of 5. does NOT place the application in condition for allowance because:

Applicants' arguments is on the ground that Izuha et al. is silent as to whether or not the grain size has substantially uniform grain diameter. Applicant thus asserted that Izuha et al. fail to remedy the deficiency in Cuchiari et al.

In response to the arguments, it is submitted that Izuha et al., on col. 11, lines 35-41 and col. 13, lines 14-20, clearly state that " The polycrystalline film was having columnar grains A of which the sizes of the dielectric film 5 and the upper electrodes 6 were the same in the direction of the substrate surface corresponding to the size of crystal grains of the lower electrode 4 and the crystal orientation thereof were the same."

Since these grain sizes and crystal orientation are all the same, it is very clear to one of the ordinary skill in the art that Izuha et al. teach a substantially uniform grain diameter in the dielectric film 5. Thus, the rejection is deemed proper.

HSIEN-MING LEE
PRIMARY EXAMINER

Lee
8/14/2004